

**IDAHO  
PUBLIC UTILITIES  
Commission**

C.L. "Butch" Otter, Governor

**P.O. Box 83720, Boise, Idaho 83720-0074**

**Paul Kjellander, President  
Marsha H. Smith, Commissioner  
Mack A. Redford, Commissioner**

July 20, 2007  
DOCKET FILE COPY ORIGINAL

JUL 31 2007

✓ Marlene H. Dortch  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room TW—A306  
Washington, DC 20554

Karen Majcher  
Vice President, High Cost & Low Income Division  
Universal Service Administrative Company  
2000 L Street, NW, Suite 200  
Washington, DC 20036

RE: CC Docket 96-45—State ETC Designation and Certification for Federal High Cost Support.

Dear Ms. Dortch and Ms. Majcher:

This letter is to inform you that on June 28, 2007, the Idaho Public Utilities Commission approved Edge Wireless, LLC (Edge) application for ETC designation for purposes of federal universal support. Attached is a copy of the Commission Order No. 30360. Also attached is Exhibit C, which provides a list of the rural and non-rural wire centers with the associated SAC. Each wire center listed will be included in its entirety.

The approved ETC service areas include the entire study areas of each rural incumbent local exchange carrier. Thus, no redefinition of study areas is required.

In the ETC application and pursuant to Section 254(e), Edge states that the Company will use the high-cost support it receives to improve its infrastructure in rural areas.

Please contact me if you have any questions regarding Edge's ETC designation.

Sincerely,

Grace Seaman  
Utilities Analyst  
208.334.0352

Enclosure

GS:utclcomm/Edge ETC USAG ltr

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## EXHIBIT C

### ILEC WIRE CENTERS WITHIN EDGE WIRELESS PROPOSED ETC AREA

#### NON-RURAL ILEC WIRE CENTERS

##### Owest Communications

SAC 475103

AMFLIDMA (American Falls)  
BLFTIDMA (~~Black Foot~~) BLACKFOOT  
BLSIDMA (Bliss)  
BNCRIDMA (Bancroft)  
BRLYIDMA (Burley)  
BUHLIDMA (Buhl)  
CSFRIDMA (Castleford)  
DWNIDMA (Downey)  
EDHZIDMA (Eden-Hazelton)  
GDNGIDMA (Gooding)  
GRACIDMA (Grace)  
HALYIDMA (Hailey)  
HGMNIDMA (Hagerman)  
IDFLIDMA (Idaho Falls)  
JERMIDNM (Jerome)  
KMBRIDMA (Kimberly)  
KTCHIDMA (Ketchum)  
LHSPIDMA (Lava Hot Springs)  
MCCMIDMA (McCammon)  
MRTGIDMA (Murlaugh)  
MTPLIDMA (~~Montpelier~~) MONTEPELIER  
PCTLIDMA (Pocatello)  
PSTNIDMA (Preston)  
RBRTIDMA (Roberts)  
RGBYIDMA (Rigby)  
RIRIIDMA (Ririe)  
RXBGIDMA (Rexburg)  
SDSPIDMA (Soda Springs)  
SHLYIDMA (Shelley)  
SHSHIDMA (Shoshone-Dietrich)  
AFTNWYMA (~~Tyhee Valley~~) TYHEE VALLEY  
TWFLIDMA (Twin Falls)  
WINDLIDMA (Wendell)

**RURAL ILEC WIRE CENTERS**

**Albion Telephone Company** SAC 472213

ALBNIDXC (Albion)  
ALMOIDXC (Almo)  
ARCOIDXC (Arco)  
ELBAIDXC (Elba)  
HLBKIDXC (Holbrook)  
HOWEIDXC (Howe)  
MSLTIDXC (Malta)  
MCKYIDXC (Mackay)  
MLCYIDXC (Malad)  
MOORIDXC (Moore)  
RFRVIDXC (Raft River)

**CenturyTel of Idaho, Inc.** SAC 472225

LEDRIDXC (Leadore)  
NFRKIDXC (North Fork)  
SLMNIDXC (Salmon)

**Custer Communications** SAC 472218

CHLSIDXC (Challis)  
CYTNIDXC (Clayton)  
EKBNIDXC (Elk Bend)  
MAYIDXC (May)  
~~STNLIDXC (Stanley)~~

**Direct Communications** SAC 472232

ARBNIDXC (Arbon)  
PARSIDXC (Paris)  
RKLDIDXC (Rockland)

**Filer Mutual** SAC 472220

FILRIDXC (Filer1)  
FILRIDXC (Filer2)  
HLSTIDXC (Hollister1)  
HLSTIDXC (Hollister2)

**Fremont Telecom Company**

SAC 472222

ASTNIDMA (Ashton)  
STATIDMA (St. Anthony)  
ISPKIDMA (Island Park)

**Mud Lake**

SAC 472227

DUBSIDXC (Dubios)  
HAMRIDXC (Hamer)  
KLGRIDXC (Kilgore)  
MNVWIDXC (Montevue)  
TRTNIDXC (Terreton)

**Project Mutual**

SAC 472331

MNDKIDXC (Minidoka)  
NRLDIDXC (Norland)  
OKLYIDXC (Oakley)  
PAULIDXC (Paul)  
RPRTIDXC (Rupert)

**Silver Star - Teton Telephone**

SAC 472295

DRGSIDMA (Driggs)  
TTNIDMA (Tetonia)  
VCTRIDMA (Victor)

**Silver Star Communications**

SAC 472295

FRDMWYXC (Freedom)  
IRWNIDXC (Irwin)  
WAYNIDXC (Wayan)

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE PETITION OF EDGE )</b>	
<b>WIRELESS, LLC FOR DESIGNATION AS AN )</b>	<b>CASE NO. EDG-T-07-01</b>
<b>ELIGIBLE TELECOMMUNICATIONS )</b>	
<b>CARRIER UNDER 47 U.S.C. § 214(e)(2) )</b>	<b>ERRATA TO</b>
	<b>ORDER NO. 30360</b>

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On June 29, 2007, IPUC Order No. 30360 was issued by this Commission. The following change is made to that Order:

Page 12, First Full Paragraph

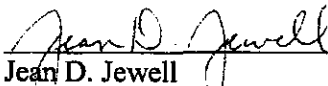
READS:

"Returning to ITA's Motion, ITA claimed that Edge has no facilities in 12 specific wire centers including the 4 Custer Telephone wire centers. However, Edge asserts and we find that it currently serves, or has indicated in its build-out plan that it intends to serve, 4 of the 12 wire centers listed in ITA's Motion."

SHOULD READ:

"Returning to ITA's Motion, ITA claimed that Edge has no facilities in 12 specific wire centers including the 4 Custer Telephone wire centers. However, Edge asserts and we find that it currently serves, or has indicated in its build-out plan that it intends to serve, 8 of the 12 wire centers listed in ITA's Motion."

DATED at Boise, Idaho this 29<sup>th</sup> day of June 2007.

  
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Jean D. Jewell  
Commission Secretary

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE PETITION OF EDGE )</b>	
<b>WIRELESS, LLC FOR DESIGNATION AS AN )</b>	<b>CASE NO. EDG-T-07-01</b>
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<b>CARRIER UNDER 47 U.S.C. § 214(e)(2) )</b>	<b>ORDER NO. 30360</b>

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On January 22, 2007, Edge Wireless, LLC filed an Application for designation as an eligible telecommunications carrier (ETC) for service areas in Idaho that are currently served by other carriers. Edge is a commercial mobile radio service (CMRS) carrier providing "mobile service" as defined in 47 U.S.C. § 153(27). Edge currently provides cellular service in south-central and southeast Idaho. Edge requested that it be designated as eligible to receive all available support from the federal Universal Service Fund (USF) and that it be approved to participate in the Lifeline program. 47 C.F.R. § 54.201(d).

On February 12, 2007, the Commission issued a Notice of Application and Modified Procedure in this matter. Order No. 30240. The Commission's Notice also set a deadline for intervention and invited interested persons to comment on the Application no later than March 14, 2007. Intervention was granted to WWC Holdings dba Alltel and to the Idaho Telephone Association (ITA). Order Nos. 30264 and 30265, respectively. On March 13, 2007, the ITA filed a "Protest and Comments" arguing that it was unable to file comments because it was precluded from reviewing Edge's confidential two-year network improvement plan.

On March 28, 2007, the Commission issued Order No. 30286 extending the comment period so that ITA and Edge could make arrangements for ITA to review Edge's network improvement plan. The Commission directed that after reviewing the confidential document, Edge and ITA shall inform the Commission "whether each believes a hearing is necessary or if the matter may continue to be considered by Modified Procedure." Order No. 30286 at 2. The two parties were to advise the Commission no later than April 25, 2007. In response to Order No. 30286, ITA filed a "Motion for Staff Investigation." On May 1, 2007, Edge filed an "Errata" correction to its Application. On May 3, 2007, Staff and Edge each filed replies opposing ITA's Motion.

For the reasons set out below, we deny ITA's Motion and grant Edge's Application for ETC status as modified below.

## BACKGROUND

### A. *The ETC Application*

In its Application, Edge seeks ETC designation in certain non-rural and rural areas that are also served by 11 local exchange companies (LECs). See *Idaho Code* §§ 62-603(6) and (10). Edge proposes to serve 33 non-rural wire centers<sup>1</sup> served by Qwest Corporation in the Magic Valley and southeastern Idaho. Edge also requests ETC status to serve a total of 44 rural wire centers<sup>2</sup> served by ten rural telephone carriers including: Albion Telephone Company (4 wire centers); CenturyTel of Idaho (3); Custer Communications (4); Direct Communications (3); Filer Mutual (4); Fremont Telecom (3); Mud Lake (5); Project Mutual (5); Silver Star-Teton Telephone (3); and Silver Star Communications (3). Application, Exh. C. Most of the rural wire centers are served by members of the ITA. ITA Protest at 1; Motion for Staff Investigation at 2 n.1.

Edge states in its Application that it will offer the federally designated "universal" services listed by the Federal Communications Commission (FCC) at 47 C.F.R. § 54.101(a). Application at 5; see also *Idaho Code* § 62-610C. Edge states that it stands ready to provide the following universal services which are supported by the federal USF: (1) voice grade access to the public switch telephone network; (2) local calling; (3) dual tone multi-frequency signaling (or its functional equivalent); (4) single-party service; (5) access to emergency services (e.g., 911); (6) access to operator services and directory assistance; (7) access to interexchange long-distance service; and (8) toll limitation service for qualifying low-income customers. Edge maintains that it is a full-service wireless carrier that offers all of the universal services throughout its licensed service area utilizing its own facilities. *Id.* Besides Idaho, Edge also operates in portions of northern California, southeastern Oregon, and northwestern Wyoming. *Id.* at 2.

As required by FCC rule, Edge plans to advertise the availability of each of the universal services listed in the prior paragraph throughout its service area. 47 C.F.R. § 54.201. The method of advertising may include newspapers, magazines, radio, direct mailings, public

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<sup>1</sup> One or more "wire centers" typically comprise a geographic area called a local telephone exchange.

<sup>2</sup> Edge initially sought to serve 45 rural wire centers, including the Stanley wire center purportedly served by Custer. Application, Exh. C, p. 2. However, the Stanley wire center is actually served by the rural ILEC Midvale Telephone and serving just the Stanley wire center would presumably "require the Commission to redefine the Midvale study area." App. Errata at 1-2. Consequently, Edge subsequently deleted the Stanley wire center from its proposed ETC service area.

exhibits and displays, bill inserts, and telephone directory advertising. Edge also intends to promote "Lifeline" service<sup>3</sup> through print advertising and direct outreach by Edge's sales staff to community health, welfare and employment offices as well as to Indian tribes. Application at 13. The proposed ETC service area includes tribal areas of the Shoshone-Bannock Tribes. Edge states that it provided a copy of its Application to the Tribes per 47 C.F.R. § 54.202(d). *Id.* at 14.

#### ***B. Commission Authority to Designate ETC Status***

The Commission has the jurisdiction and authority to designate carriers as ETCs pursuant to the federal Telecommunications Act of 1996 and FCC rules. 47 U.S.C. § 214(e)(1)-(2); 47 C.F.R. § 54.201. Under the federal Telecom Act, the Commission is also responsible for the annual ETC certification process for Idaho service areas. 47 C.F.R. § 54.313-314. Annual certification allows carriers to receive federal USF revenues each year.

Under Idaho law, the Commission has the "full power and authority to implement the federal Telecommunications Act of 1996. . . ." *Idaho Code* § 62-615(1). The Commission is also authorized to promulgate any "procedures necessary to carry out the duties authorized or required by" the federal Act. *Idaho Code* §§ 62-610D, 62-615(3).

#### ***C. ETC Eligibility Requirements***

To be designated an ETC, the telecommunications provider must: (1) be a "common carrier" as defined by 47 U.S.C. § 153(10); (2) offer throughout its proposed ETC service area(s) the universal services (set forth above and in 47 C.F.R. § 54.101(a)) either by using its own facilities or a combination of its own facilities and the resale of another carrier's services; and (3) must advertise the availability of its universal service offering and the charges for such services using media of general distribution. 47 U.S.C. § 214(e)(1).

For those ETC applicants seeking designation in an area already served by an incumbent ETC, the federal Telecom Act further provides that "[u]pon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an [ETC]." 47 U.S.C. § 214(e)(2). In addition, before designating

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<sup>3</sup> Lifeline service provides eligible low-income residential customers with a credit on their monthly telephone bill equal to the FCC's subscriber line charge. In addition, the Idaho Telecommunications Service Assistance Program (ITSAP) also provides monthly credits to eligible residential customers. *Idaho Code* §§ 56-901(1) and 56-902(1). Edge will not promote "Linkup" service "because Edge does not charge for activation of wireless services."



an additional ETC "for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest." *Id.*

In March 2005, the FCC encouraged State commissions to adopt state-specific ETC requirements when designating ETCs pursuant to 47 U.S.C. § 214(e)(2). *In the Matter of the Federal-State Joint Board on Universal Service, Report & Order*, CC Docket No. 96-45, 20 F.C.C.R. 6371 (March 17, 2005) (hereinafter "*ETC Report & Order*"). In August 2005 the Commission issued Order No. 29841 setting out Idaho-specific eligibility and reporting requirements for ETC designation.

1. Additional Eligibility Requirements. In Order No. 29841 the Commission adopted four additional eligibility requirements for ETC designation in Idaho. The ETC applicant must adequately address the following requirements:

- The commitment and ability to provide supported services: The ETC applicant must certify that it will: (a) provide service on a timely basis to requesting customers within the applicant's service area where the applicant's network already passes the potential customer's premises; and (b) provide service within a reasonable period of time, if the potential customer is within the applicant's licensed service area but outside its existing network coverage if service can be provided at reasonable cost by:
  - i. Modifying or replacing the requesting customer's equipment;
  - ii. Deploying roof-mounted antenna or other equipment;
  - iii. Adjusting the nearest cell tower;
  - iv. Adjusting network or customer facilities;
  - v. Reselling services from another carrier's facilities to provide service; or
  - vi. Employing, leasing or constructing an additional cell site, cell extender, repeater, or other similar equipment.
- The ability to remain functional in emergencies: The ETC applicant must demonstrate it has a reasonable amount of backup power to ensure functionality without an external power source; is able to re-route traffic around damaged facilities; and is capable of managing traffic spikes resulting from emergency situations.
- A commitment to consumer protection and service: The ETC applicant must certify that it will comply with all applicable service quality standards and consumer protection rules. In addition, all wireless carriers

seeking ETC designation must agree to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wire Service ("CTIA Consumer Code").

- Local usage plans: The ETC applicant must provide a description of its local usage plan and description of the local usage plan(s) of the incumbent local exchange carrier (ILEC).

2. Reporting Requirements. In addition to eligibility requirements, the Commission required ETC applicants to comply with six annual reporting requirements. Order No. 29841, App. The six reporting requirements are described briefly below.

- Two-year network improvement plan and progress report: The network improvement plan must describe with specificity any proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed ETC service area. The network improvement plan shall include the projected start date and completion for each network improvement and the specific geographic areas where the improvements will be made. The progress report must include maps detailing the ETC's progress toward meeting its target plans, an explanation of how universal service support was received and how it was used to improve signal quality, coverage, capability, and an explanation regarding any network improvement targets which have not fulfilled.
- Outages: The annual report must include detailed information on any outages that potentially affect: (a) at least 10% of the end users served in a designated service area; or (b) a 911 special facility.
- Unfulfilled service requests: The annual report must include the number of requests for service from potential customers within the ETC's service area that were unfilled in the previous year. The ETC carrier shall also detail how it attempted to provide service to those potential customers.
- Customer complaints: The annual report must include the number of complaints per 1,000 handsets or lines.
- Service quality and consumer protection certificate: The annual report must include certification that the ETC is complying with applicable service quality standards and consumer protection rules.
- Description of the applicant's local usage plan: The annual report must include a description of the ETC's local usage plan(s) and a description of the ILEC's local usage plan(s).

Order No. 29841, App.

#### *D. Procedural History*

As previously mentioned, Order No. 30240 required interested persons to file written comments regarding Edge's Application no later than March 14, 2007. Supporting comments were filed by the Commission Staff and ITA filed a Protest and Comment. On March 22, 2007, Edge filed Reply Comments to the ITA and Staff comments. In its Protest and Comments, ITA raised substantive and procedural issues, primarily concerning Edge's "ETC designation within the service territories of ten rural telephone companies, eight of whom are ITA members." Protest at 1.

1. ITA Protest. ITA's procedural issue was that Edge's ETC Application was defective because "there is no **public** evidence demonstrating that the requested USF support 'is in the public interest' and 'necessary to preserve and advance universal service,' as required by federal law." ITA Protest at 3 (emphasis original). In particular, ITA claimed that it was not able to review Edge's two-year network improvement plan because the plan was removed from the public record pursuant to Edge's claim of confidentiality. ITA claimed it had "no means of determining whether the [Application] conforms to Commission Order No. 29841's requirements regarding network improvement plans." *Id.* at 4. ITA urged the Commission to either dismiss the ETC Application or rule that Modified Procedure is not appropriate in this case, or "schedule further proceedings." *Id.* at 1.

2. Edge Reply. Edge noted in its reply to ITA's procedural protest that ITA had not requested a copy of any of the confidential material or otherwise sought to review the information. Edge Reply Comments at 4. Edge argued that the ITA did not avail itself of any of the Commission procedures for providing limited access to confidential information, including the use of Protective Orders. *Id.* Edge urged the Commission to reject ITA's eleventh-hour plea. *Id.*

3. Commission Order. In Order No. 30286, the Commission put aside the substantive issues and addressed ITA's procedural issue concerning its inability to review Edge's two-year network improvement plan. The Commission directed the parties to negotiate an arrangement that would allow ITA to review the Company's two-year improvement plan after executing a Confidentiality Agreement. After review of the confidential improvement plan

occurs, the Commission directed the parties to “inform the Commission as to whether it believes a hearing is necessary in this matter or if the matter may continue to be processed by Modified Procedure.” Order No. 30286 at 2-3. The parties were to advise the Commission no later than April 25, 2007.

4. ITA’s Subsequent Motion. In response to the Commission’s directive, ITA filed a “Motion for a Staff Investigation.” In its Motion, the ITA did not request a hearing but requested “the Commission direct its Staff to conduct further investigations and issue a report to the Commission and parties . . .” ITA Motion at 2. Both Staff and Edge filed replies opposing ITA’s Motion. With this procedural background, we now turn to the substantive issues presented in this case.

## **DISCUSSION AND FINDINGS**

### ***A. Non-Rural Wire Centers***

In its Application, Edge Wireless requests ETC designation for 33 non-rural wire centers served by Qwest Corporation in central and southeastern Idaho. Application, Exh. C. Edge states in its Application that it already provides services to 24 counties in central and southeastern Idaho. Application at 2. Edge maintains that it meets the state and federal requirements for ETC designation in the 33 non-rural wire centers. In its comments, Staff also asserts that Edge meets all the federal and state ETC requirements set out in Commission Order No. 29841 concerning the ETC request for non-rural wire centers.

***Commission Findings:*** We find that Edge meets the statutory requirements for ETC designation as set out in 47 U.S.C. § 214(e)(1) and Commission Order No. 29841. We recognize that the federal Telecommunications Act treats non-rural and rural service areas differently for the purposes of ETC designation. When a carrier meets the statutory requirements set out in § 214(e)(1) for a non-rural area served by an ILEC, the statute provides that the Commission shall designate more than one common carrier as an ETC. 47 U.S.C. § 214(e)(2).

We further find that designating Edge as an ETC in the requested non-rural service areas is consistent with “the public interest, convenience, and necessity” pursuant to § 214(e)(2). In particular, we note that Edge has a significantly larger local calling area than Qwest’s local calling areas in the Magic Valley and in eastern Idaho. Edge’s local calling area includes most of central and southeastern Idaho and its calling plans include unlimited nationwide long-distance calling at no additional charge. Application at 6-7. In addition, granting ETC

designation will benefit consumers by offering services of another competitor and may be beneficial to eligible recipients of Idaho's Telecommunications Service Assistance Program (ITSAP) or Lifeline service. More specifically, we note that Edge will offer "Tribal Lifeline" service to qualified residents of the Fort Hall Reservation for as little as \$1.00 per month. Application at 14. Finally, we observe that no commenter specifically opposed Edge's Application for the non-rural (Qwest) wire centers and at least one public commenter (City of Jerome), urged us to designate Edge as an ETC carrier in non-rural wire centers served by Qwest. Consequently, we grant Edge's Application for an ETC designation in the non-rural wire centers.

### ***B. Rural Wire Centers***

Edge also seeks ETC designation for 44 rural wire centers.<sup>4</sup> Our review of ETC requests for rural wire centers is more rigorous because ETC designation is not mandatory under 47 U.S.C. § 214(e)(2). We have held previously that those seeking ETC designation in rural areas have the burden of demonstrating that the public interest would be served by granting their applications. Order Nos. 29841 and 30212. The public commenters and Staff recommended ETC designation for Edge.

1. Public Comments. The Commission received four public comments supporting Edge's bid for ETC designation. The City of Jerome stated that Edge has been providing service to the City for several years. The City stated that additional coverage to outlying rural areas would be beneficial to the City. Steven Young of Young & Young of Idaho lives and farms near Acequia and Minidoka, Idaho. He supported ETC designation so that federal USF funds might be used to build wireless facilities near Acequia and Minidoka.

The manager of Idaho Power Company's southern operation also supported Edge's ETC designation. He related that Idaho Power depends on Edge Wireless's communications to serve energy customers in southern Idaho. He urged that ETC designation be approved so that federal USF funds may be available to improve service in rural Idaho. Finally, the Bonneville County Sheriff's Office uses Edge as its primary carrier for all mobile law enforcement operations. ETC designation and access to the federal USF would allow Edge to provide "service in all areas of our County, including rural areas that now have limited and/or spotty service for our emergency operations."

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<sup>4</sup> See *supra* note 2.

2. Staff Comments. Staff asserted that Edge has met all federal and state requirements to be granted ETC status in the requested rural wire centers. Staff insisted that the Company's two-year network improvement plan and the Company's emergency procedures satisfy the standards contained in Order No. 29841. After reviewing the Company's entire Application, the Staff indicated that Edge demonstrated "a serious commitment to provide reliable, state-of-the-art telecommunications to rural wire center consumers." Staff Comments at 9-10. Staff stated that it believes the Company has sufficiently demonstrated "a commitment to Idaho" as evident by the number of service/repair technicians located within the state as well as locating a network operating center (NOC) located in Pocatello. *Id.* at 10. The Staff concluded that "Edge's Idaho presence exceeds that of some of ILECs." *Id.*

3. ITA. In its initial Protest and subsequent Motion, ITA opposes Edge's ETC bid to serve the rural wire centers. After reviewing Edge's two-year network improvement plan, ITA maintains there are still two discrepancies with the ETC Application. First, ITA continues to allege that Edge does not or will not serve "throughout" all of the rural wire centers that it seeks ETC designation. Protest at 2; Motion at 3. ITA asserts that Edge does not have facilities in certain wire centers and Edge's two-year network improvement plan does not reveal that these particular wire centers are scheduled for facilities in the next two years. Motion at 4 (confidential). For example, ITA notes that Edge has no facilities in 12 specific wire centers including the four wire centers served by Custer Telephone Cooperative. *Id.* at 3-4 (confidential).

ITA's second issue is related to the first. ITA alleges that because Edge will not serve "all the wire centers, or the entirety of some wire centers," it will be "cream skimming" (i.e., serving) only the most densely populated parts of the wire centers, or some wire centers and not others. Motion at 5-6. Consequently, ITA requested that the Commission direct the Staff to conduct an investigation to ensure that Edge's ETC Application will not result in "cream skimming." Rural cream skimming occurs when a competitor (such as Edge) seeks "to serve only the low-cost, high revenue customers in a rural telephone company's study area. This is a concern because universal service support is calculated based on a study area-wide average of a rural telephone company that serves customers in both high-cost and low-cost areas throughout its study area." Order No. 29541 at 16 (emphasis original).

ITA requested that the Staff determine: (1) if Edge lacks facilities and the ability to provide service in the rural wire centers listed in its Application; (2) whether Edge is serving only the most profitable and least cost areas of those wire centers where it is serving only a portion of the area; and (3) whether Edge's claim of network coverage is accurate. Motion at 6.

4. Staff Objection. Staff objected to ITA's Motion for two reasons. First, Staff maintained that ITA has misconstrued the standard for granting ETC status. Staff argued that an ETC applicant "is not required to demonstrate a pre-existing ability to serve an entire service area nor even an entire wire center before being granted an ETC designation. Rather, an ETC applicant must demonstrate a commitment to fulfill all reasonable requests for service within the proposed service area." Staff Objection at 2. Second, Staff argued that it is not a prudent use of Staff's time to conduct an investigation of Edge's "network coverage." *Id.* at 3. Staff noted that the Commission has required that ETCs must file annual reports that include: (1) a two-year network improvement plan and progress report, and (2) a list of unfilled service requests. The annual reports are then used to determine how well an ETC "is performing based upon stated commitments in its ETC application and whether it will be approved for recertification by the Commission." *Id.*

5. Edge's Reply to the ITA Motion. Edge urged the Commission to deny ITA's Motion because it is "based on a misreading of the law, obfuscation of the facts, and is intended solely to further delay" the proceeding. Edge Reply at 1. Edge maintained that the ITA has misconstrued the federal law by asserting that an ETC applicant must offer the universal services throughout the proposed ETC area using its own facilities. Edge maintained that this position "is simply wrong." *Id.* at 2. Edge insisted that federal law and this Commission's procedural Order regarding ETC designation provides that an ETC applicant can offer the universal services in three ways: (1) through its own facilities; (2) through the facilities of other carriers; (3) or by constructing new facilities. Edge insisted that ITA's Motion erroneously focuses on where Edge has constructed wireless facilities to date. Edge insisted that it has sufficient FCC license spectrum to provide service to the entire proposed ETC area. *Id.* at 4. Besides radio spectrum, Edge has a customer service center in Idaho Falls and a switch in Pocatello. *Id.*

Obtaining ETC designation and federal USF revenue will enable Edge to build additional cell sites. Since initiating Idaho service in December 2000 with 32 cell sites, Edge

now has 147 cell sites, adding an average of 19 sites per year. *Id.* “Edge is committed to building out the rural wire centers and has the proven ability to do so.” *Id.*

**Commission Findings:** We first address ITA’s Motion. In its Motion, ITA asserted that Edge will not serve “throughout” the proposed service area. In essence, ITA argues that Edge cannot meet the requirement to provide the Section 214(e)(1) requirement that Edge provide service “throughout the service area” because Edge does not have existing facilities in all the rural wire centers it proposes to service. ITA Motion at 2-3. For example, ITA insisted that Edge has no facilities in 12 specific wire centers including the four Custer Telephone wire centers. ITA Motion at 3-4 (partially confidential).

1. Commitment to Serve “Throughout.” Both Edge and the Staff maintain that the ITA has construed “throughout the service area” standard too narrowly. We agree. An ETC applicant is not required to demonstrate that it has the present or current ability to serve the entire service area. As we stated in Order No. 29841 set out above, an applicant for ETC designation must certify that it will provide service to a customer outside the applicant’s existing network coverage within a reasonable period if service can be provided at a reasonable cost by examining the six alternatives. *Supra* at p. 4; Order No. 29841, App. at 2; 47 C.F.R. § 54.202(a)(1)(B); *ETC Report and Order*, 20 F.C.C.R. 6371 at ¶ 22 (2005). Indeed, both the FCC and this Commission require an ETC to “provide service within a reasonable period of time . . . if service can be provided at reasonable cost” by employing any of the six delivery options. 47 C.F.R. § 54.202(a)(1)(B) and Order No. 29841, App. at 2 (emphasis added). Both the FCC and the Commission recognize that there may be instances when an ETC cannot serve a customer using one of the six delivery options. The FCC observed that if “an ETC applicant determines that it cannot serve the customer using one or more of these methods, then the ETC must report the unfulfilled request to the Commission within 30 days after making such determination.” *Id.*

2. Network Improvement Plan. Besides the ETC applicant’s “commitment” to reasonably serve customers outside its network coverage, the Commission also requires applicants to submit a two-year network improvement plan. As laid out in our Appendix to Order No. 29841, the commitment to provide service and the network improvement plan go in hand-in-hand. In the present case, Edge’s network improvement plan lists the proposed improvements or upgrades to its network on a wire center-by-wire center basis throughout its proposed ETC service area. Edge’s improvement plan contains a timetable that begins in the



third quarter of 2007 and continues through the first quarter of 2009. The plan includes detail such as estimated coverage, type of construction and total project costs. The commitment to serve, the network improvement plan and the annual reporting requirements are all designed to reveal instances when an ETC applicant is not providing reasonable service and to disclose how Edge is utilizing its federal USF support.

Returning to ITA's Motion, ITA claimed that Edge has no facilities in 12 specific wire centers including the 4 Custer Telephone wire centers. However, Edge asserts and we find that it currently serves, or has indicated in its build-out plan that it intends to serve, 4 of the 12 wire centers listed in ITA's Motion. Anderson Affidavit at 2-3 (confidential). Consequently, we find that ITA has misconstrued the requirements for granting ETC status. We further find that Edge adequately demonstrated that it has facilities or plans to construct facilities in 8 out of the 12 wire centers alleged by ITA as having no Edge facilities. Moreover, the fact that Edge has no present facilities in the four remaining wire centers is not a requirement for obtaining ETC status.

3. Cream Skimming. We next address ITA's cream skimming issue. ITA's argument appears to be that because Edge does not have existing facilities or plans to construct facilities in all wire centers, then "Edge's Application is, in effect, a request for ETC designation in a partial wire center" or some wire centers but not others. ITA Motion at 4. The potential for cream skimming rises when an ETC applicant seeks designation in a disproportionate share of the higher-density wire centers in a rural ILEC's service area. *ETC Report & Order* at ¶ 49.

In its Application, Edge seeks ETC designation for 44 wire centers served by 10 rural ILECs. More specifically, Edge seeks ETC status matching the entire rural service areas (study areas) of the 10 ILECs. Application, Exh. C. Because Edge proposes to serve the entire service area of the 10 ILECs, the issue of cream skimming is not present. As the FCC recognized, when an applicant "requests ETC designation for an entire rural service area, it does not create cream skimming concerns because the affected ETC is required to serve all wire centers in the designated service area." *ETC Report & Order* at ¶ 49. As we previously noted, an ETC applicant does not need to deploy facilities to serve all requested wire centers but must provide service within a reasonable period of time. Consequently, we find that the cream skimming analysis is not necessary in this case because Edge does not seek ETC designation below the study area level of the 10 rural telephone companies. For the reasons set out above, we deny ITA's Motion for a Staff Investigation.

After addressing ITA's Motion, the Commission must still determine whether Edge meets the ETC eligibility requirements of Order No. 29841. These additional requirements include how Edge functions in emergencies, and Edge's commitment to consumer protection and services.<sup>5</sup>

4. The Ability to Remain Functional in Emergencies. To demonstrate the ability to remain functional during emergencies, an ETC applicant must show that it has a "reasonable amount of backup power to ensure functionality without an external power source; is able to re-route traffic around damaged facilities; and is capable of managing different traffic spikes resulting from emergency situations." Order No. 29841 at 11. Staff asserted that Edge meets the requirement to remain functional in emergencies. Staff Comments at 8-9.

We find that Edge's Application demonstrates its ability to remain functional during emergency situations. In particular, Edge explained the use of backup support for their mobile switching center and cell sites, its fault-tolerant network, its continuous (24 hours x 7 days) network monitoring and outage resolution procedures, its cell on wheels (COW), its redundant facilities, and has provided an inventory and regional availability of spare parts. Application at 9-11. We further find that the Application provides a detailed description of Edge's 911 capabilities including automatic numbering information (ANI) and automatic location information (ALI) service. *Id.* at 8. Edge also has a team of technicians located within southeastern Idaho equipped with a complement of spare equipment for cell sites, microwave and other facilities. Finally, Edge has a network operations center in Pocatello.

5. Consumer Protection. Order No. 29841 requires that an ETC applicant certify that it will comply "with all applicable service quality standards and consumer protection rules. In addition, all wireless carriers seeking ETC designation must agree to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ('CTIA Code')." Order No. 29841, App. at 3. Edge states in its Application that it will comply with all applicable service quality standards, consumer protection rules, and the standards established by the CTIA Consumer Code. Application at 15. Staff commented that the Company's Application "exhibits an understanding of the federal and state consumer service requirements for ETC designation." Comments at 10.

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<sup>5</sup> We have previously addressed Edge's local usage plans and tribal notification.

Based upon our review of the Application and Staff's comment, we find that Edge has certified that it will comply with all applicable service quality standards and consumer protection rules.

6. Summary. After reviewing Edge's Application and the comments in the case, we find that Edge has satisfied the requirements for designation as an ETC carrier in the 44 rural wire centers. We further find that the public interest will be served by designating Edge as an additional ETC in the proposed service area. We conclude that Edge's commitment to provide the universal services, its network improvement plan, its large local calling area, its record of investing in Idaho, and its plans to remain functional during emergencies all demonstrate that ETC designation is consistent with the public interest. Order Nos. 29841 at 4; 29541 at 6. Although we continue to be concerned about the size of and demand on the federal USF, this remains an issue to be addressed and resolved at the federal level. Order No. 29541 at 18-19.

#### **ORDER**


IT IS THEREFORE ORDERED that ITA's Motion for a Staff Investigation is denied.

IT IS FURTHER ORDERED that Edge Wireless's Application for designation as an ETC in the 33 non-rural wire centers served by Qwest is granted.

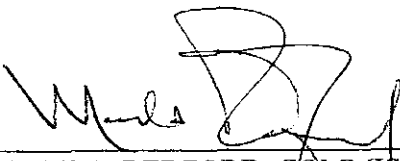
IT IS FURTHER ORDERED that Edge's Application for ETC designation in the 44 rural wire centers is granted. Edge shall comply with the ETC reporting and certification requirements of Order No. 29841.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. EDG-T-07-01 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this case. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* §§ 61-626 and 62-619.

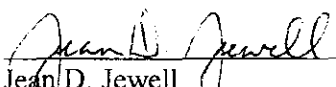
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28<sup>th</sup>  
day of June 2007.

  
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PAUL KJELLANDER, PRESIDENT

  
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MARSHA H. SMITH, COMMISSIONER

  
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MACK A. REDFORD, COMMISSIONER

ATTEST:

  
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Jean D. Jewell  
Commission Secretary

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